

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MICHAEL J. KOSOBUD,	§	
	§	
Appellant,	§	
VS.	§	CIVIL ACTION NO. 4:09-cv-2905
	§	
DAWN M. SCHNOLIS,	§	
	§	
Appellee.	§	

ORDER

Appellee Dawn M. Schnolis has filed a motion to dismiss with prejudice (“the Motion”) Appellant Michael J. Kosobud’s bankruptcy appeal. (Doc. No. 42.)

The Motion must be considered in the context of the procedural history of this case. On September 8, 2009, Kosobud filed an untimely Notice of Appeal (Doc. No. 1) of the Bankruptcy Court’s Judgment (Bankruptcy Court Doc. No. 36) providing that Schnolis’ civil judgment against Kosobud was not dischargeable. The Bankruptcy Court had held that Kosobud’s intentional invasion of Schnolis’ privacy constituted a “willful and malicious” injury sufficient to meet the exception to discharge under § 523(a)(6). On June 1, 2010, the Court dismissed Kosobud’s appeal after he failed to timely prosecute it. (Doc. No. 16.) When Kosobud sought reinstatement of his appeal, the Court issued an Order on July 6, 2010, stating that it would reinstate the appeal upon a showing that Kosobud paid Schnolis’ attorney’s fees incurred to that date on the appeal. (Doc. No. 28.)


Instead of paying the fees, however, Kosobud appealed to the Fifth Circuit. The Fifth Circuit dismissed Appellant’s appeal for lack of jurisdiction and remanded Schnolis’ motion for attorney’s fees and costs to this Court. (Doc. No. 37.) On February 11, 2011, the Court granted

Schnolis' motion for attorney's fees and costs, which included those incurred in connection with Kosobud's Fifth Circuit appeal. (Doc. No. 41.)

In the three months since the Court granted Schnolis' motion for attorney's fees and costs, Kosobud has not attempted to prosecute his appeal. After considering Schnolis' filings and the procedural history of the appeal, the Court finds that Schnolis' motion should be **GRANTED**. Kosobud's bankruptcy appeal is hereby **DISMISSED** with prejudice.

IT IS SO ORDERED.

SIGNED at Houston, TX, on this the 16th day of May, 2011.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE